

MEMO

To: Mayor and City Council

From: Environmental Sustainability Committee

Date: June 18, 2013

RE: BMP Inspections

The purpose of this memo is to transmit the perspective of the City of Fairfax Environmental Sustainability Committee (ESC) regarding the May 28, 2013 City Council discussion of the use of the city's stormwater fund to finance the conduct of inspections and determinations of condition of privately owned BMP facilities in the city.

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The ESC has consistently recommended that the city establish a baseline of the condition and location of all stormwater management facilities in the city as an essential early step in developing the city's stormwater program. We believe such a baseline is essential to gather the information to make timely, complete, and accurate input to city and state planning and reporting requirements, and to insure the integrity and accuracy of the inspection process. However, we had expected this could be accomplished by using the inspection reports that private BMP owners are required to submit annually under the present ordinance.

The staff presentation and recommendation made on May 28<sup>th</sup> underlined the value of city-funded inspections to provide useful data for the city's stormwater management obligations. We agree with staff that a single contractor should provide a more accurate and consistent baseline report as the city begins its new MS4 permit and the Virginia SWMP responsibilities, and awaits even more specific pollutant reduction requirements from a replacement Accotink TMDL. In addition, it is our understanding that new regulations include a requirement that the city must directly oversee an inspection of all facilities every five years. Consequently, we think the city should explore the possibility that this approved FY 2014 city funded inspection could be counted as the first, baseline year of that cycle. It is unfortunate that this action may result in the underfunding of other projects that City Council previously approved for FY 2014 but we trust that staff can find acceptable offsets for the \$70,000 additional costs, and that the issues raised concerning city liability are resolved before execution. Also, while it is understandable that sometimes issues arise that need to be dealt with immediately, the ESC is concerned that the decision to fund what is by city ordinance a private entity responsibility was made during a council worksession outside of the budget process, and the possible influence such a precedent could have on future stormwater fund decisions.

The ESC is firmly opposed to expenditure of any part of the city stormwater fund for the maintenance of privately owned stormwater management facilities. The owners are responsible for such costs and at any rate the expenditure of public funds for these actions would be unsustainable. It is expected that future compliance projects will consume all of the public stormwater fund and it is inappropriate to use that source for private maintenance activities. As a CIP component, the stormwater fund should be

viewed primarily as a mechanism for funding major public projects as part of a comprehensive stormwater strategy that satisfies state and federal regulations.

The ESC members are encouraged by the detailed nature of the Council's discussion of the stormwater issues that face us in the future. While we are understandably protective of the public stormwater fund that is essential to meeting those obligations, we are open to many of the ideas for technical and planning assistance to private entities that were debated. The ESC expects that the solutions we choose over the coming years will be a combination of maintenance of public infrastructure, carefully designed drainage projects, new preventative BMPs and SWFs, retrofit projects, improved design for development and redevelopment, greater use of our public spaces to improve retention, and the efforts of individual residents and businesses to retain and manage stormwater on their properties. This will demand a comprehensive and coordinated approach that will need Council's continued leadership and direction.

In conclusion, we recommend that the RFP for the city-funded BMP inspections be formulated:

- to provide useful information for the city's stormwater management program and
- as the baseline for the oversight inspection mechanism required of the city in the new state stormwater regulations;
- and that this 2014 city funded inspection will fulfill the private BMP owners 2014 inspection requirement, with the expectation that in the future owners will annually inspect and maintain their facilities as required by the current ordinance.